

Mr. Jerry Hackman
President, J&J Broadcasting, Inc.
Vice President, SNRN Broadcasting, Inc.
63120 Phantom Lake Road
Iron River, WI 54847

May 13, 2021

Licensee: J & J Broadcasting, Inc. and SNRN
Broadcasting, Inc.
Station/Call Sign: WIMI, WJMS, WKMJ-FM, WMPL
and WUPY
Waiver and Refund Request: FY 2016 Late Payment
Penalty
Disposition: Denied (47 U.S.C. § 159(c) and (d),¹ 47
CFR §§ 1.1164, 1.1160, and 1.1166)
Date Request Filed: October 11, 2016
Date Fees and Penalty Paid: September 30, 2016
Fee Control Nos.: RROG-2017-16258

Dear Mr. Hackman:

This responds to your request on behalf of J & J Broadcasting, Inc. and SNRN Broadcasting, Inc. (collectively, the Stations) for a waiver and refund of the penalties assessed against them for late payment of the Stations' Fiscal Year (FY) 2016 regulatory fees (Request).² For the reasons stated below, we deny the Request.

Under 47 U.S.C. § 159 and the Commission's implementing rules, we are required to "assess and collect regulatory fees" to recover the costs of the Commission's regulatory activities,³ and when the required payment is received late or it is incomplete, to assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."⁴ Specifically, "[a]ny late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee ... which was not paid in a timely manner."⁵

Each year, the Commission establishes the final day on which payment must be received before it is considered late, i.e., a deadline after which the Commission must assess the statutory late payment penalty. The deadline for paying FY 2016 regulatory fees was September 27, 2016.⁶ Unfortunately, the Stations did not pay their FY 2016 regulatory fees by the September 27, 2016 deadline.⁷

You have requested that we waive and refund the late payment penalties because a medical emergency prevented you from timely paying the Stations' FY 2016 regulatory fees. The Request also

¹ 47 U.S.C. § 159(c) and (d) are now codified at 47 U.S.C. § 159A(c) and (d).

² Letter from Jerry Hackman, President, J & J Broadcasting and Vice President, SNRN Broadcasting, Inc., 63120 Phantom Lake Road, Iron River, WI 54847 to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554 (Sept. 30, 2016, *rec'd* Oct. 11, 2016) (Request).

³ 47 U.S.C. § 159(a); 47 CFR § 1.1151.

⁴ 47 U.S.C. § 159(c), now codified at 47 U.S.C. § 159A(c); 47 CFR § 1.1164.

⁵ 47 CFR § 1.1164.

⁶ *Payment Methods and Procedures for Fiscal Year 2016 Regulatory Fees*, Public Notice, 2016 WL 4625515, (Sept. 6, 2016).

⁷ Because the fee and penalty was subsequently paid, we will treat the Request as a request to waive and refund the penalty under 47 CFR §§ 1.1160 and 1.1166.

states that loss of the funds used to pay the late payment penalties would cause a financial hardship to the Stations.⁸

When we evaluate such matters, we consider whether the Request establishes the existence of bank error⁹ or presents legal grounds or clear mitigating circumstances¹⁰ to waive collection of the penalty payments.

While we sympathize with the alarming medical emergency you experienced, the emergency by itself does not constitute clear mitigating circumstances, absent a showing that there was no one else available or able to pay the fees in your absence. The Request does not so assert. Accordingly, the Request is denied on that ground.

As an alternative and independent basis for our decision, we deny the Request on the merits. The Commission has repeatedly held that while relief may be granted based on financial hardship, “[m]ere allegations or documentation of financial loss, standing alone,” do not suffice and that “it is incumbent upon each [party requesting waiver relief] to fully document its financial position and show that it lacks sufficient funds to pay the ... fee and maintain service to the public.”¹¹ On this information, the Commission considers on a case-by-case basis whether the requesting party has met its burden of proof and demonstrated extraordinary and compelling circumstances that outweigh the public interest in recouping the Commission’s regulatory costs.¹² Your claim of financial hardship was not supported by any documentation and thus fails to demonstrate a basis to grant the Request.

Accordingly, the Request is denied.

If the Stations have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink that reads "James Lyons". The script is cursive and fluid.

James Lyons
Deputy Chief Financial Officer

⁸ Request.

⁹ 47 CFR § 1.1164.

¹⁰ See *Sitka Broadcasting Co., Inc.*, Memorandum Opinion and Order, 70 FCC 2d 2375, 2378, para. 6 (1979), citing *Lowndes County Broadcasting Co.*, Memorandum Opinion and Order, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, Memorandum Opinion and Order, 23 FCC 2d 868 (1970); see also *NextGen Telephone* (OMD, Apr. 22, 2010); *Istel, Inc.* (OMD, Apr. 22, 2010).

¹¹ *Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12761-62, para. 13 (1995).

¹² *Id.*